

REMARKS

The Office Action dated April 15, 2005, has been carefully reviewed and the foregoing amendment has been made in response thereto. Claim 12 has been canceled. Claims 1-11 and 13 are pending in the application.

The rejection of claims 1-11 and 13 under 35 USC 112, second paragraph, as being indefinite is respectfully traversed. The phraseology concerning the establishment of a data call “in response to said database of IP addresses” was objected to. Independent claims 1, 9, and 13 have been amended to recite establishing a data call “using said IP addresses in said database of IP addresses.” It is submitted that the amended claims clearly and definitely define the invention and that they are in conformance with 35 USC 112.

The rejection of claim 13 under 35 USC 101 as being directed to non-statutory subject matter is respectfully traversed. Claim 13 recites a computer related invention that should be evaluated according to the flowchart entitled Examination Procedures For Computer-Related Inventions. Box 6 of the flowchart directs the examiner to determine whether the claims are directed to a computer program *per se*. Since claim 13 does not recite any actual software instructions, it is not a computer program *per se*. Therefore, an evaluation is made according to box 8 whether it is a series of steps to be performed by a computer. Since it is, an evaluation is made according to box 12 whether there is post-computer process activity or pre-computer process activity. Claim 13 recites both of these. The live video exchange and the display of still images are sufficient post-computer activity since they are perceptible to the user. Furthermore, claim 13 recites obtaining a target telephone number from the telephone interface, which is a sufficient pre-computer activity. Therefore, claim 13 is directed to statutory subject matter as shown in box 14 and the rejection should be withdrawn.

The rejection of claims 1-4, 6, 7, 9-11, and 13 under 35 USC 102(b) as being anticipated by Ludwig et al is respectfully traversed. Claim 1 recites a method of sharing still images between first and second computers connected to an internetwork for exchanging network packets. First and second call clients run in the first and second computers, respectively, for establishing a data call comprising live video exchange from at least one video camera and comprising a network session between the first and second call clients. A voice telephone call is established via a public telephone network between first and second users of the first and second computers, respectively. The first user initiates a first image viewer subclient under control of the first call client which loads and displays still image data on the first computer and which transmits the still image data to the second computer using the network session. A second image viewer subclient on the second computer loads and displays the still image data wherein the live video exchange is maintained simultaneously with display of the still image data by the image viewer subclients.

MPEP §706.02 states that an invention is anticipated by a prior art reference under 35 USC §102(b) only if the prior art reference teaches every aspect of the claimed invention. Furthermore, in Paperless Accounting, Inc. v. Bay Area Rapid Transit Sys., 804 F.2d 659, 665 (Fed. Cir 1986), the Federal Circuit stated that “[A] §102(b) reference must sufficiently describe the claimed invention to have placed the public in possession of it.” Judge Learned Hand noted that for prior art to be anticipatory, the prior art must “bear within its four corners adequate directions for the practice of the patent invented. If the [prior art] offers no more than a starting point for further experiments...it is not an anticipation,” Dewey & Almy Chem. v. Mimex, 124 F.2d 986, 990 (2d Cir. 1942).

Ludwig relates to a multimedia workstation in a desktop environment wherein high quality audio and video are superimposed onto an enterprise’s existing computing and network infrastructure, including workstations, LANs, WANs, and building wiring. Separate real-time (audio and video) and synchronous (text and graphic data) networks are deployed within the same enterprise (column 3, lines 29-

45). As shown in Figure 3 of Ludwig, all communication signals ultimately are carried via local area networks or a wide area network.

Ludwig lacks any teaching of a public telephone network or a voice telephone call. Furthermore, the audio and video in Ludwig are carried together in its real-time network. In contrast, claim 1 recites a voice telephone call via a public telephone network and a data call via a network session on an internetwork.

Claim 1 recites simultaneous display of still images using the same network session as the live video. Ludwig teaches carrying snapshots on a different network than the network carrying the video feed. Since Ludwig fails to teach each of the foregoing limitations, it fails to anticipate claim 1.

Independent claim 9 recites a telephone interface for capturing a target telephone number dialed on a telephone and a call client for transmitting the captured target telephone number identifying a remote computer to a central server maintaining a database of IP addresses of registered computers. A resulting data call comprises live video exchange and transmission of still image data. Ludwig fails to teach any such data call that is established by capturing a target telephone number. Therefore, claim 9 is likewise allowable over Ludwig.

Independent claim 13 recites obtaining a target telephone number from a telephone interface, transmitting the target telephone number to a central server that maintains a database of IP addresses of registered computers, and establishing a data call comprising live video exchange and transmission of still image data. Since Ludwig fails to teach a telephone interface, a target telephone number, or a data call having the recited limitations, claim 13 is allowable.

The dependent claims provide further distinctions. Since none of claims 1-4, 6, 7, 9-11 or 13 are anticipated by Ludwig, the rejection should be withdrawn.

The rejection of claim 5 under 35 USC 103(a) as being unpatentable over Ludwig in view of Anderson is respectfully traversed. Anderson fails to correct for the deficiencies of Ludwig as noted above. Therefore, claim 5 is allowable over the cited references.

The rejections of claim 8 and 12 (the limitations of claim 12 having been incorporated into claim 9) under 35 USC 103(a) as being unpatentable over Ludwig in view of Alexander is respectfully traversed. Alexander relates to completing a call to multiple line appearances within interconnected networks. The caller initiates a call using a telephone and communicates with the called party only using that telephone. In contrast, the present invention establishes a separate data call between two computers based on the identified target telephone number. Alexander fails to either teach or suggest a telephone interface or the use of a dialed target telephone number within a public telephone network for establishing a separate data call in a data network. Moreover, Alexander fails to correct for the deficiencies of Ludwig. Therefore, claims 8 and 9 are allowable over the cited references.

In view of the foregoing amendment and remarks, claims 1-11 and 13 are now in condition for allowance. Favorable action is respectfully solicited.

Respectfully submitted,



Mark L. Mollon
Attorney for Applicants
Reg. No. 31,123

Dated: May 31, 2005
MacMillan, Sobanski & Todd, LLC
One Maritime Plaza, Fourth Floor
720 Water Street
Toledo, Ohio 43604
(734) 542-0900
(734) 542-9569 (fax)